

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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HAYES LEMMERZ INTERNATIONAL, INC.,

Plaintiff/Counter-Defendant,

v.

Case No. 03-CV-70181-DT

KUHL WHEELS, LLC and EPILOGICS GROUP,

Defendants/Counter-Plaintiffs.

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**ORDER DENYING DEFENDANTS KUHL WHEELS, LLC AND EPILOGICS GROUP'S  
MOTION TO FILE SUPPLEMENTAL ANSWER AND COUNTERCLAIM, GRANTING  
FOLEY & LARDNER'S MOTION TO WITHDRAW, AND DENYING PLAINTIFF HAYES  
LEMMERZ INTERNATIONAL, INC.'S MOTION FOR SANCTIONS**

Pending before the court are Defendants Kuhl Wheels, L.L.C. and Epilogics Group's ("Kuhl's") motion to file supplemental answer and counterclaim, Foley & Lardner's ("Foley's") motion to withdraw, and Plaintiff Hayes Lemmerz International, Inc.'s ("Hayes's") motion for sanctions. On May 12, 2006, the court conducted a hearing in these matters.

For reasons stated fully on the record, the court denied Kuhl's motion to file a supplemental answer and counterclaim, granted Foley & Lardner's motion to withdraw, and denied Hayes's motion for sanctions.

The court will expand somewhat here upon its ruling relating to Foley's motion to withdraw and the consequences of that withdrawal. During the hearing, Foley expressed its willingness to compensate Kuhl for some reasonable expense incurred in bringing its substitute counsel "up to speed" in the case, but stated that it was unwilling

to compensate Kuhl for any expenses incurred beyond that (e.g., substitute counsel's fees relating to trial preparation or future motions that it might draft for Defendants). As the court expressed on the record, such a request by Kuhl is fair under the circumstances. The court further ventured on the record that in a case of this complexity, in approximately two weeks' time a competent patent attorney ought to be able to become familiar with the patent claims especially as related to the *Markman* briefing, and to review discovery including the depositions of record. The court does not expect that multiple attorneys need to be involved in the effort of case familiarization. It is in this context that the court believes a reasonable economic balance can and should be struck. Accordingly,

IT IS ORDERED that Foley, upon its withdrawal, prepare to reimburse Kuhl for fees that represent a reasonable time for substitute counsel to be caught up to a point where it is prepared to move forward with the case. Foley and Kuhl are directed to work together in good faith to identify suitable substitute counsel and to determine either an amount or a formula aimed at determining an amount for Foley to pay to reimburse Kuhl for such substitute counsel's preparation. If the parties, however, are unable to agree on a monetary amount or formula, they may either seek the court's guidance informally or brief the issue and file a motion asking the court to determine a reasonable amount.

IT IS FURTHER ORDERED for reasons stated fully on the record that Kuhl's motion to file supplemental answer and counterclaim [Dkt. # 122] is DENIED, Foley's motion to withdraw [Dkt. # 123] is GRANTED, and Hayes's motion for sanctions [Dkt. # 129] is DENIED.

S/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: May 16, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 16, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522